

**U.S. Department of Labor**

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**Issue Date: 27 April 2005**

Case No.: 2004-LCA-00041

In the Matter of

**ADMINISTRATOR,  
WAGE AND HOUR DIVISION**  
Prosecuting Party

v.

**TREE EQUIPMENT DESIGN, INC.**  
Respondent

**DECISION AND ORDER**

This is a proceeding under the H-1B provisions of the Immigration and Nationality Act, ("INA"), 8 U.S.C. § 1101(a)(15)(H)(1)(b) and the applicable regulations issued thereunder at 20 C.F.R. Part 655. The Administrator, U.S. Department of Labor, Wage and Hour Division ("Administrator") and Tree Equipment Design, Inc. ("Respondent") have filed Consent Findings resolving all issues in dispute in this case relating to Respondent's contest of the Administrator's Determination Letter of September 16, 2004 regarding Respondent's compliance with the H-1B provisions of the INA ("Determination Letter").

Respondent, without admitting the truth of the Prosecuting Party's allegations, has withdrawn its exception to the determination of back wages and benefits due as amended by the Consent Findings; agreed to a debarment for a period of two years from sponsoring aliens for employment under the Act; and agreed that the entire record upon which any final order may be based shall, pursuant to 29 C.F.R. § 18.9(b)(2), consist solely of the Determination Letter and the Consent Findings; and waived all further procedural rights as provided in 29 C.F.R. § 18.9(b)(3) and (4).

The Consent Findings are marked for identification as ALJ Exhibit No. 1, and are attached hereto and made a part hereof. The Court has examined the Consent Findings and concludes that all issues in contest between the Administrator and Respondent have been resolved.

Accordingly, IT IS ORDERED that the Consent Findings (ALJ Exhibit No. 1) be and the same hereby are APPROVED, and

IT IS FURTHER ORDERED that wages and benefits in the total amount of \$14,925.31, less all applicable legal deductions, plus interest at the rate of one per cent, or \$74.69, to be paid by Respondent to its former employees Iaroslav Y. Didenko ("Didenko") and Oleksandr

Kharchenko (“Kharchenko”) by certified checks shall be deemed to be full satisfaction of the back wage claim against Respondent arising out its employment of Didenko and Kharchenko. Respondent shall transmit these certified checks to the Administrator, who will forward them to the employees.

Respondent shall make payments according to the following schedule:

April 1, 2005: Didenko – \$3,200.00; Kharchenko – \$1,800.00.

July 1, 2005: Didenko – \$3,200.00; Kharchenko – \$1,800.00.

October 1, 2005: Didenko – \$3,200.00; Kharchenko – \$1,800.00.

A failure by Respondent to make payments within ten (10) days of their due date shall make the entire balance due and payable.

IT IS FURTHER ORDERED that, pursuant to 20 C.F.R. § 655.855, the U.S. Department of Labor’s Employment and Training Administration (ETA) and the Attorney General shall be notified that Respondent is debarred for a period of two years regarding any petitions filed by the Respondent pursuant to section 204 or section 214(c) of the Immigration and Nationality Act.

A

Robert D. Kaplan  
Administrative Law Judge

Cherry Hill, New Jersey